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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,815	06/26/2003	Francois Cottard	239098US0	2794
22850	7590	06/06/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER	
			ELHILO, EISA B	
			ART UNIT	PAPER NUMBER
			1751	
			NOTIFICATION DATE	DELIVERY MODE
			06/06/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/603,815	Applicant(s) COTTARD ET AL.	
	Examiner Eisa B. Elhilo	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1 This action is responsive to the amendment filed on April 9, 2007.

2 The previous rejections of the claims in office action dated on January 9, 2007, are
withdrawn.

New ground of rejection

Claim Rejections - 35 USC § 102

3 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 11-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Duffer
et al. (US 6,669,933 B2).

Duffer et al. (US' 933 B2) teaches an aqueous alkaline hair dyeing composition (pH of greater than 7) comprising oxidation dyes and alkalizing agents comprising a mixture of sodium metasilicate (alkali metal metasilicate) and alkanolamines as claimed in claims 1-4 and 11-12 (see col. 6, lines 25-33), wherein the oxidation base is para-phenylenediamine as claimed in claims 13-15 (see col. 3, lines 26-27), meta-aminophenol as a coupler as claimed in claims 16 and 20 (see col. 4, lines 1-3), sulfate as an acid addition salt of oxidation bases as claimed in claims 17-18 (see col. 16, Example 1), wherein the oxidation base and couplers are presented in the dyeing composition in amounts within the claimed limits as claimed in claims 19 and 21 (see col. 16, Example 1), organic solvent in the claimed amount as claimed in claims 22-23 (see col.

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16, Example 1), cationic polymer and nonionic surfactant in the claimed amounts as claimed in claim 24 (see col. 11, lines 10-11 and col. 16, Example 1). Duffer et al. also teaches a dyeing composition comprising oxidation bases, alkalizing agents and hydrogen peroxide as an oxidizing agent as claimed in claims 25-26 (see col. 18, lines 12-14). Duffer et al. further, teaches a method for dyeing hair comprising applying to the hair the dyeing composition as described above after mixing with oxidizing agent and the mixture left on hair for at least 10 minutes and rinsed off with water as claimed in claims 27-30 (see col. 16, lines 28-39). Duffer et al. (US' 933 B2) teaches all the limitations of the instant claims. Hence, Duffer et al. (US' 933 B2) anticipates the claims.

Claim Rejections - 35 USC § 103

4 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-10 and 31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duffer et al (US' 6,669,933 B2).

Duffer et al. (US' 933 B2) teaches an aqueous alkalizing hair dyeing composition comprising oxidation bases and one or more alkalizing agents such as sodium metasilicate and alkanolamines wherein the alkalizing agents are presented in the composition in the amounts of 1-5%, which within or overlapped with the claimed ranges as claimed in claims 5-10 (see col. 6, lines 25-33). Duffer et al. also teaches a method for dyeing hair comprising applying to the hair

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the dyeing composition after mixing the dyeing composition with 4 to 6 % of hydrogen peroxide as an oxidizing agent as claimed in claims 60-67 (see col. 2, lines 17-45 and col. 16, lines 28-39).

The instant claims differ from the reference by reciting the percentage amounts of sodium metasilicate and alkanolamines in the dyeing composition.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to formulate such a composition to arrive at the claimed invention because the reference teaches all the dyeing ingredients include the claimed alkalizing agents, oxidation bases and oxidizing agents in the amounts within or overlapped with the claimed percentage amounts as shown above, and, thus, a person of the ordinary skill in the art would be motivated to formulate such a composition by optimizing the dyeing ingredients in the composition in order to get the maximum effective amounts of these ingredients in the dyeing composition and would expect such a composition to have similar properties to those claimed. Absent unexpected results.

With respect to claims 31-33, it would have been obvious to one having ordinary skill in the art at the time the invention was made to formulate a composition comprising metasilicates and alkanolamines in the claimed ratio, because Duffer et al. (US' 979 A1) clearly teaches a mixture of alkalizing agents that include metasilicates and alkanolamine in the amounts of 1-5% which within the claimed amounts for imparting alkalinity (see col. 6, lines 25-65), and, thus, a person of the ordinary skill in the art would be motivated to optimize the ratio between these alkalizing agents with a reasonable expectation of success for imparting alkalinity of the composition, and would expect such a composition to have similar properties to those claimed, absent unexpected results.

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Response to Applicant's Arguments

5 Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eisa B. Elhilo whose telephone number is (571) 272-1315. The examiner can normally be reached on M - F (8:00 -4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Eisa Elhilo/
Primary Examiner, A.U. 1751

May 28, 2007